

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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**Form 19b-4**

**Proposed Rule Change**

**by**

**THE OPTIONS CLEARING CORPORATION**

**Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934**

**Item 1. Text of the Proposed Rule Change**

The Options Clearing Corporation ("OCC") proposes to amend its Rule 306 as set forth below to allow a clearing member that is not fully registered with the SEC as a broker-dealer, but that is registered with the CFTC as a futures commission merchant ("FCM"), to file its annual audited financial report on Form 1-FR-FCM with OCC within 90 days after the close of its fiscal year. Material proposed to be added is underlined and material proposed to be deleted is bracketed.

**THE OPTIONS CLEARING CORPORATION**

**RULES**

\* \* \*

**CHAPTER III**

\* \* \*

**Financial Reports**

**RULE 306.**

(a) – (b) [Unchanged]

***...Interpretations and Policies:***

.01 [Unchanged]

.02 Any Clearing Member that is not fully registered with the Securities and Exchange Commission as a broker-dealer under Section 15(b)(1) or (2) of the Securities Exchange Act of 1934 but that is registered with the Commodity Futures Trading Commission (the "CFTC") as a futures commission merchant may, in lieu of filing reports on Form X-17A-5, cause to be filed with the Corporation a report of its financial condition on CFTC Form 1-FR-FCM within 17 business days after the end of each month (regardless of whether or not such Clearing Member is required to prepare or file such report on a monthly basis with another regulatory or self-

regulatory organization). Additionally, a copy of the annual audited report on Form 1-FR-FCM required to be filed with the CFTC pursuant to CFTC Regulation 1.10(b)(ii) must be filed with the Corporation each year within 90[60] days (or such longer period to which the Corporation may consent) after the close of such Clearing Member's fiscal year. If the Clearing Member's designated self-regulatory organization ("DSRO") requires such Clearing Member to file any report on Form 1-FR-FCM on an earlier date or on a more frequent basis than is required under this Interpretation, then such Clearing Member shall file with the Corporation a true and complete copy of each such report at the same time it is filed with the DSRO. Notwithstanding the foregoing, no such Clearing Member will be required to file any report on Form 1-FR-FCM with the Corporation prior to the date specified in any extension of time duly granted by the CFTC or the DSRO, so long as such extension is not issued on a permanent basis and a copy of such extension is filed with the Corporation in a timely manner. The Corporation may require any Clearing Member at any time to make more frequent net capital computations or to file with the Corporation the above reports on a more frequent basis or to file such other reports or financial statements in such form or detail as may be prescribed by the Corporation.

\* \* \*

**Item 2.        Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Board of Directors of OCC at a meeting held on May 24, 2005. Questions regarding the proposed rule change should be addressed to Bruce C. Kelber, Director and Associate General Counsel, at (312) 322-6200.

**Item 3.        Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The purpose of the rule change is to conform OCC's year-end financial reporting deadline applicable to clearing members primarily regulated as FCMs with CFTC Regulation 1.10(b)(ii).

OCC Rule 306, Interpretation .02 currently provides that a clearing member that is not fully registered with the SEC as a broker-dealer, but that is registered with the CFTC as an FCM, must file its annual audited financial report on Form 1-FR-FCM with OCC within 60 days of the end of its fiscal year unless OCC consents to an extension.<sup>1</sup> However, under CFTC Regulation 1.10(b)(ii), an FCM has up to 90 days after the close of its fiscal year to file that report with the CFTC. Clearing members that comply with CFTC Regulation 1.10(b)(ii) have requested that OCC conform its year-end financial reporting deadline with the CFTC's in order to provide for a consistent filing requirement. This rule change accommodates those requests.

\* \* \*

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Act"). The primary purpose of the change is to conform OCC's year-end financial reporting obligation applicable to clearing members primarily regulated as FCMs to the requirements of CFTC Regulation 1.10(b)(ii). The proposed rule change is not inconsistent with the existing rules of OCC, including those proposed to be amended.

**Item 4. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change would impose any burden on competition.

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<sup>1</sup> This 60 day deadline mirrors the year-end financial reporting deadline applicable to fully-registered broker-dealers.

**Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4(f) thereunder, the proposed rule change is filed for immediate effectiveness in that it effects a change to an existing rule to provide a more consistent reporting requirement for clearing members primarily regulated as FCMs. The proposed change does not adversely affect the safeguarding of securities or funds in the custody or control of OCC and does not significantly affect the rights or obligations of OCC or clearing members primarily regulated as FCMs.

**Item 8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**Item 9.      Exhibits**

Exhibit 1.      Completed Notice of Proposed Rule Changes for publication in the  
Federal Register.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has caused this filing to be signed on its behalf by the undersigned hereunto duly authorized.

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_  
**Jean M. Cawley**  
**First Vice President**  
**and Deputy General Counsel**

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34-\_\_\_\_\_ ; File No. SR-OCC-2005-11

**SELF-REGULATORY ORGANIZATION**

Proposed Rule Change By  
The Options Clearing Corporation

Relating to Amending OCC's  
Year-end Financial Reporting Deadline  
For Clearing Members Primarily Regulated as  
FCMs

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, 2005, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the  
Terms of the Substance of the Proposed Rule Change**

The proposed rule change is to conform OCC's year-end financial reporting deadline applicable to clearing members primarily regulated as FCMs with CFTC Regulation 1.10(b)(ii).



## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC Rule 306, Interpretation .02 currently provides that a clearing member that is not fully registered with the SEC as a broker-dealer, but that is registered with the CFTC as an FCM, must file its annual audited financial report on Form 1-FR-FCM with OCC within 60 days of the end of its fiscal year unless OCC consents to an extension.<sup>1</sup> However, under CFTC Regulation 1.10(b)(ii), an FCM has up to 90 days after the close of its fiscal year to file that report with the CFTC. Clearing members that comply with CFTC Regulation 1.10(b)(ii) have requested that OCC conform its year-end financial reporting deadline with the CFTC's in order to provide for a consistent filing requirement.

\* \* \*

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended ("Exchange Act"). The primary purpose of the change is to conform OCC's Rules to the CFTC financial reporting obligation. The proposed rule change is not inconsistent with the existing rules of OCC, including those proposed to be amended.

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<sup>1</sup> This 60 day deadline mirrors the year-end financial reporting deadline applicable to broker-dealers.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change would impose any burden on competition.

**C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments:*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2005-11 on the subject line.

*Paper Comments:*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-OCC-2005-11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2005-11 in the caption above and should be submitted on or before [insert date 21 days from publication in the Federal Register.] \_\_\_\_\_.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Secretary

Dated: \_\_\_\_\_